

**STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
Public Health Hearing Office**

Lori Ann Sudell, Dental Hygienist  
License No.: 06240

Petition No.: 2001-0125-013-001

**MEMORANDUM OF DECISION**

***Procedural Background***

On August 9, 2002, the Department of Public Health ("the Department") issued a Statement of Charges to Lori Ann Sudell ("respondent") due to her alleged violations of the Connecticut General Statutes and the Regulations of Connecticut State Agencies ("the Regulations") pertaining to her dental hygienist license. Rec. Exh. A.

On August 19, 2002, A Notice of Hearing on the Statement of Charges was provided to respondent. In the Notice of Hearing, the undersigned was appointed by the Commissioner of the Department to be the Hearing Officer and to rule on all motions, make findings of facts and conclusions of law, and issue an Order.

On September 17, 2002, the Department made a Motion to Amend Statement of Charges and filed an Amended Statement of Charges ("the Charges"). Rec. Exh. B. An administrative hearing was held on September 24, 2002 in accordance with Connecticut General Statutes Chapter 54 and Regulations §§19a-9-1 *et seq.* During the hearing, the Motion to Amend the Statement of Charges was granted. Rec. Exh. B. Respondent appeared *pro se*; Attorney Diane Wilan represented the Department. Both parties were given the opportunity to present evidence and argument on all issues and to conduct cross-examination. Respondent orally answered the Charges at the hearing.

This Memorandum of Decision is based entirely on the record and sets forth this Hearing Officer's findings of fact, conclusions of law and order. To the extent the findings of fact actually represent conclusions of law, they should be so considered, and vice versa. *SAS Inst., Inc. v. S&H Computer Systems, Inc.*, 605 F. Supp. 816 (M.D. Tenn. 1985).

***Allegations***

1. In paragraph 1 of the Charges, the Department alleges that respondent is, and has been at all times referenced in the Charges, the holder of Connecticut dental hygienist license number 006240.
2. In paragraph 2 of the Charges, the Department alleges that during January 2001, respondent worked as a dental hygienist for Sandra Bogdon, D.D.S., in Westport, Connecticut.
3. In paragraph 3 of the Charges, the Department alleges that during January 2001, respondent used the DEA identification numbers of Sandra Bogdon, D.D.S., to call in prescriptions for controlled substances, using the name of her employer's patient. Respondent then picked up these prescriptions for her own use.
4. In paragraph 4 of the Charges, the Department alleges that during January 2001, respondent worked as a dental hygienist for Julian Mark, D.D.S., in Stamford, Connecticut.
5. In paragraph 5 of the Charges, the Department alleges that during January 2001, respondent used the DEA identification number of Julian Mark, D.D.S., to call in prescriptions for controlled substances for her own use, using the name of Tom Dolan.
6. In paragraph 6 of the Charges, the Department alleges that respondent was arrested by the Westport Police on January 23, 2001, on two counts of obtaining controlled substances.
7. In paragraph 7 of the Charges, the Department alleges that respondent's actions constitute grounds for disciplinary action pursuant to §20-126o.

***Findings of Fact***

1. Respondent is, and has been at all times referenced in the Charges, the holder of dental hygienist license number 006240. Tr. 9/24/02 p. 7.
2. During January 2001, respondent worked as a dental hygienist for Sandra Bogdon, D.D.S., in Westport, Connecticut. Tr. 9/24/02 p.7.
3. During January 2001, respondent used the DEA identification number of Sandra Bogdon, D.D.S., to call in a prescription of 30 tablets of 7.5-750 mg of hydrocodone, a controlled substance, using the name of her employer's patient. The prescription called for three refills. Tr. 9/24/02 p.7; Dept. Exh. 1.
4. During January 2001, respondent picked up the prescription obtained through the use of Dr. Bogdon's DEA identification number and Dr. Bogdon's patient's

name, R.J., for her own use. Four days later, respondent refilled the prescription and obtained thirty more tablets. Tr. 9/24/02 p. 7; Dept. Exh. 1.

5. During January 2001, respondent worked as a dental hygienist for Julian Mark, D.D.S., in Stamford, Connecticut. Tr. 9/24/02 p. 7.
6. During January 2001, respondent used the DEA identification number of Dr. Mark to call in a prescription for thirty tablets of 7.5-750 mg of hydrocodone for her own use, using patient's name, T.D. Tr. 9/24/02 p. 8; Dept. Exh. 1.
7. On January 23, 2001, respondent was arrested by the Westport Police on two counts of obtaining controlled substances. Tr. 9/24/02 p. 8.
8. When respondent was arrested, she had in her possession two prescription bottles containing hydrocodone tablets. One bottle had Dr. Mark's name as the prescribing physician, and the patient's name T.D. The other bottle had Dr. Bogdon's name as the prescribing physician, and the patient's name of R.J. Dept. Exh. 1.
9. In or about November 2001, respondent was convicted on charges related to her diversion of controlled substances and placed on probation for two years, including the requirement that she undergo rehabilitation. Tr. 9/24/02 p. 22, 23
10. Respondent has not yet participated in a rehabilitation program. Tr. 9/24/02 p. 21.

### ***Discussion and Conclusions of Law***

Section 20-126o provides, in pertinent part:

(a)The Department of Public Health may take any of the actions set forth in section 19a-17 for any of the following causes: . . . (2) illegal conduct; (3) negligent, incompetent or wrongful conduct in professional activities; . . . (7) engaging in fraud or material deception in the course of professions activities . . . ;or (9) abuse or excessive use of drugs, including alcohol, narcotics or chemicals.

The Department bears the burden of proof by a preponderance of the evidence in this matter. *Swiller v. Comm'r of Public Health*, CV-950705601, Superior Court, J.D. Hartford/New Britain at Hartford, October 10, 1995; *Steadman v. SEC*, 450 U.S. 91, 101 S. Ct. 999, *reh'g den.*, 451 U.S. 933 (1981). The Department sustained its burden of proof with regard to all allegations set forth in paragraphs 1 through 7 the Charges.

Respondent has admitted to engaging in conduct that violates §20-126o of the Connecticut General Statutes, as alleged in the Charges. By using the DEA identification

numbers of her employers, respondent “illegally,” “wrongfully,” “fraudulently,” and “deceptively” obtained the prescription drug, Hydrocodone, in the course of her professional activities using the names of her employers’ patients, in violation of subsections (2), (3) and (7) of §20-126o(a) of the Connecticut General Statutes.

Respondent openly admitted to suffering from a drug addiction triggered by an abusive relationship during the relevant times in the Charges. Tr. 9/24/02 pp. 16, 24. Such addiction constitutes an abuse of drugs in violation of subsection (9) of §20-126o(a) of the Connecticut General Statutes.

Respondent testified that she was ordered by the court to undergo drug rehabilitation and a two year probation. However, respondent has not yet participated in a rehabilitation program. As of the date of the hearing, the only detail she could provide relating to her mandated treatment was that it will “either be a six-week program or a 12-week program.” Tr. 9/24/02 p. 22-23.

Respondent stated she has not taken any hydrocodone since the day of her arrest, January 23, 2001; and she no longer communicates with the ex-boyfriend who abused her. She still works for Dr. Julian Mark four days a week and is a member of the St. Ann’s parish in Bridgeport. Respondent has not only admitted to the Charges, but expresses a sincere regret for her misconduct, a desire to continue to work in her profession, and a commitment to remain drug free. These factors have been given serious consideration in the issuance of this Order.

### ***Order***

Based upon the record in this case, the above findings of fact and conclusions of law, and pursuant to Conn. Gen. Stats. §§ 19a-17 and 20-20-126o, it is hereby ordered in the case of Lori Ann Sudell, dental hygienist license number 006240, Petition number 2001-0125-013-001:

1. Respondent’s license number 006240 shall be placed on probation for a period of three (3) years under the following terms and conditions:
  - a. Respondent shall participate in regularly scheduled therapy at her own expense with a licensed psychiatrist or psychologist pre-approved by the Department (“therapist”).

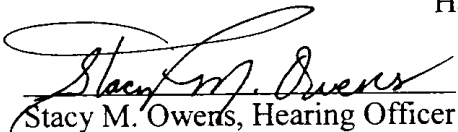
- 1) Respondent shall provide a copy of this Decision to her therapist.
  - 2) Respondent's therapist shall furnish written confirmation to the Department of his or her engagement in that capacity and receipt of a copy of this Decision within fifteen (15) days of receipt.
  - 3) If respondent's therapist determines that therapy is no longer necessary, that a reduction in frequency of therapy sessions is warranted, or that respondent should be transferred to another therapist, the therapist shall advise the Department, and the Department shall pre-approve said termination of therapy, reduction in frequency of therapy sessions, and/or respondent's transfer to another therapist.
  - 4) The therapist shall submit reports monthly for the first year of probation; and quarterly for the remaining two years of probation, which shall address, but not necessarily be limited to, respondent's ability to practice as a dental hygienist in an alcohol and substance free state safely and competently. Said reports shall continue until the therapist determines that therapy is no longer necessary or the period of probation has terminated.
  - 5) The therapist shall immediately notify the Department in writing if the therapist believes respondent's continued practice poses a danger to the public, or if respondent discontinues therapy and/or terminates her therapy.
- b. During the entire probationary period, respondent shall refrain from the ingestion of alcohol in any form and the ingestion, inhalation, injection or other use of any controlled substance and/or legend drug unless prescribed or recommended for a legitimate purpose by a licensed health care professional authorized to prescribe medications. In the event a medical condition arises requiring treatment utilizing controlled substances, legend drugs, or alcohol in any form, respondent shall notify the Department and, upon request, provide such written documentation of the treatment as is deemed necessary by the Department.
- 1) During the first six (6) months of the probationary period, respondent shall submit to six (6) random observed urine screens per month for alcohol,

controlled substances, and legend drugs; during the 7<sup>th</sup> through 33<sup>rd</sup> months, she shall submit to such screens on a weekly basis; during the 34<sup>th</sup> through 36<sup>th</sup> months, she shall submit to six (6) such screens per month. Respondent shall submit to such screens on a more frequent basis if requested to do so by the therapist or the Department. Said screens shall be administered by a facility approved by the Department. All such random screens shall be legally defensible in that the specimen donor and chain of custody shall be identified throughout the screening process. All laboratory reports shall state that the chain of custody procedure has been followed.

- 2) Respondent shall cause to have the facility provide monthly reports to the Department on the urine screens for alcohol, controlled substances and legend drugs. All such screens shall be negative for alcohol, controlled substances, and legend drugs, except for medications prescribed by respondent's physician. If respondent has a positive urine screen, the facility shall immediately notify the Department. All positive random drug and alcohol screens shall be confirmed by gas chromatograph/mass spectrometer testing.
  - 3) Respondent understands and agrees that if she fails to submit to a urine sample when requested by her monitor, such missed screen shall be deemed a positive screen.
  - 4) Respondent shall notify each of his health care professionals of all medications prescribed for her by any and all other health care professionals.
- c. Respondent shall attend "anonymous" or support group meetings on an average of four (4) times per month, and shall provide monthly reports to the Department concerning her record of attendance.
  - d. During the period of probation, respondent shall report to the Department any arrest under the provisions of Connecticut General Statutes section 14-227a. Such report shall occur within fifteen (15) days of such event.

- e. Respondent shall provide her employer at each place where respondent practices throughout the probationary period, with a copy of this Decision within fifteen (15) days of its effective date, or within fifteen (15) days of commencement of employment at a new facility. Respondent agrees to provide reports from such employer monthly for the first year of probation and quarterly for the remainder of the probationary period, stating that respondent is practicing with reasonable skill and safety and in an alcohol and substance free state.
  - f. During the period of probation, respondent shall only practice as a dental hygienist in an office and practice setting in which a dentist is present at all times while respondent is practicing. Respondent shall not practice in any public health facilities.
  - g. Respondent shall obtain written approval from the Department prior to any change in employment.
- 2. Respondent shall successfully complete her criminal probation and, within 30 days of doing so, shall provide proof of such completion to the Department's satisfaction.
  - 3. Respondent shall pay all costs necessary to comply with this Order.
  - 4. All correspondence is to be addressed to:

Bonnie Pinkerton, Nurse Consultant  
Department of Public Health  
Division of Health Systems Regulation  
410 Capitol Avenue, MS #12HSR  
P.O. Box 340308  
Hartford, CT 06134-0308

  
Stacy M. Owens, Hearing Officer

1/31/03  
Date